

Message Text

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INFO USMISSION USBERLIN
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AMCONSUL DUSSELDORF
AMCONSUL HAMBURG
AMCONSUL MUNICH
AMCONSUL FRANKFURT BY POUCH
USCINCEUR VAIHINGEN GE
CINCUSAREUR HEIDELBERG GE

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USCINCEUR AND CINCUSAREUR FOR POLADS

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SUBJECT: THE FILBINGER AFFAIR

REF: A) STUTTGART 1297 B) STUTTGART 1104 C) HAMBURG 822

1. SUMMARY. MINISTER-PRESIDENT FILBINGER CUT SHORT HIS VACATION AND RETURNED TO STUTTGART TO FACE A CDU CAUCUS AND ALSO THE PRESS JULY 8 IN THE WAKE OF LATEST DEVELOPMENTS IN THE "FILBINGER AFFAIR." THE CDU CAUCUS, LIKE THE NATIONAL PARTY LEADERSHIP, EXPRESSED SUPPORT FOR FILBINGER, WHILE THE SPD AND FDP NOT SURPRISINGLY CONTINUED TO THINK OTHERWISE. FILBINGER INSISTS HE HAS NO INTENTION OF RESIGNING, THOUGH THE PRESS NONETHELESS SPECULATES
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ON POSSIBLE SUCCESSORS. WHILE FILBINGER SEEMS TO HAVE THE LAND CDU UNDER CONTROL FOR THE TIME BEING, THE QUESTION IS WHETHER THE NATIONAL CDU LEADERSHIP, IN A PERIOD THAT IS CRITICAL FOR ITS FUTURE FORTUNES, MAY CONSIDER THAT FILBINGER IS A LIABILITY AND EXPENDABLE. END SUMMARY.

2. RESPONDING TO PRESSURES FROM WITHIN THE CDU -- BOTH AT THE

NATIONAL AND THE LAND LEVEL -- BADEN-WUERTTEMBERG MINISTER-PRESIDENT FILBINGER INTERRUPTED HIS VACATION TO RETURN TO STUTTGART TO FACE HIS PARTY AND THE PRESS AND THEN WENT OFF TO SWITZERLAND ON VACATION AGAIN. IT IS NOT YET CLEAR TO WHAT EXTENT FILBINGER SUCCEEDED IN DISARMING HIS CRITICS AND SURMOUNTING THIS LATEST CRISIS IN THE "FILBINGER AFFAIR." AS REPORTED REF A, THE LATEST ATTACKS HAD CHARGED FILBINGER WITH LYING ABOUT HIS INVOLVEMENT IN TWO OTHER DEATH SENTENCES BESIDES THE GROEGER CASE.

3. FILBINGER MAY HAVE HOPED THAT HE COULD BLUFF HIS WAY THROUGH THIS LATEST CRISIS, FOR LAST WEEK, FROM HIS VACATION SPOT, HE HAD INSISTED IN A RADIO INTERVIEW THAT HE HAD NO INTENTION TO RESIGNING AND HE DARED THE SPD AND THE FDP TO FILE A MOTION OF CENSURE AGAINST HIM IN THE LANDTAG IF THEY FELT HE HAD BEEN GUILTY OF WRONGDOING. BUT THE AFFAIR, WHICH DESPITE THE INTEREST IN THE NATIONAL PRESS HAD UNTIL THEN BEEN ESSENTIALLY A LOCAL PROBLEM OF BADEN-WUERTTEMBERG POLITICS, BEGAN TO ACQUIRE BROADER, NATIONAL RAMIFICATIONS FOR THE CDU AND ITS IMAGE. ON JULY 7 CDU HEADQUARTERS IN BONN ISSUED A STATEMENT ESSENTIALLY WHITEWASHING FILBINGER, EXPRESSING CONFIDENCE THAT AS A NAVY JUDGE FILBINGER HAD DONE NOTHING FOR WHICH HE COULD "LEGALLY OR HUMANLY" BE REPROACHED. THE PRESS REPORTS THAT THE STATEMENT WAS ISSUED ONLY AFTER INITIAL MISGIVINGS BY KOHL AND ALSO BY DREGGER AND FRANZ JOSEF STRAUSS WHO WERE CONCERNED OVER THE IMPACT THAT THE FILBINGER AFFAIR MIGHT HAVE ON CDU (CSU) CHANCES IN LANDTAG ELECTIONS IN OCTOBER. BADEN-WUERTTEMBERG MINISTER OF THE INTERIOR
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SPAETH AND MINISTER FOR FEDERAL AFFAIRS ADORNO WERE REPORTEDLY INSTRUMENTAL IN URGING KOHL TO ISSUE THE STATEMENT IN SUPPORT OF FILBINGER. HOWEVER, IN BADEN-WUERTTEMBERG SPAETH (WIDELY RUMORED AS A POSSIBLE SUCCESSOR TO FILBINGER AS MINISTER-PRESIDENT -- SEE REF B) CONFESSED IN A RADIO INTERVIEW THAT THE FILBINGER AFFAIR WAS IN FACT THE SUBJECT OF MUCH DISCUSSION WITHIN LOCAL CDU RANKS THOUGH HE INSISTED THAT THE PARTY STILL SUPPORTED FILBINGER. ERICH SCHNEIDER, DEPUTY CHAIRMAN OF THE CDU FRAKTION IN THE LANDTAG, WAS BLUNTER; FILBINGER, HE TOLD THE PRESS, SHOULD COME BACK TO STUTTGART AND FACE UP TO THE NEW ACCUSATIONS MADE AGAINST HIM. SO HOME FILBINGER CAME.

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4. FILBINGER MET FOR ABOUT THREE HOURS ON JULY 8 WITH CDU LEADERS FROM THROUGHOUT BADEN-WUERTEMBERG AND THEN HELD A PRESS CONFERENCE ATTENDED BY ABOUT FIFTY JOURNALISTS. FILBINGER'S DEFENSE AGAINST THE CHARGE HE HAD LIED WAS THAT HE HAD WRACKED HIS BRAIN BUT SIMPLY HAD NOT REMEMBERED AT THE TIME THAT AS A NAVY JUDGE HE HAD IN FACT BEEN PARTY TO TWO OTHER CASES IN WHICH DEATH SENTENCES HAD BEEN HANDED DOWN. HE HAD PROBABLY FORGOTTEN ABOUT THESE CASES, HE SAID, SINCE THE DEFENDANTS HAD NOT APPEARED IN COURT, SENTENCES WERE PRONOUNCED IN ABSENTIA, AND NO FULL COURT RECORD OF THE PROCEEDINGS HAD BEEN KEPT. HE QUESTIONED HOW ANYONE COULD BE CALLED A LIAR FOR FAILING TO RECALL CERTAIN EVENTS THAT HAD OCCURRED THIRTY-THREE YEARS PREVIOUSLY, ESPECIALLY IN SO TURBULENT A PERIOD AS THE FINAL DAYS OF THE THIRD REICH. HE
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INSISTED ANEW THAT HE HAD BEEN AN ANTI-NAZI AND HAD TRIED TO HELP AS MANY PEOPLE AS HE COULD DURING THE NAZI PERIOD. HE AGAIN CLAIMED TO SEE POLITICAL ENEMIES BEHIND THE ATTACKS BEING MADE AGAINST HIM. THE STUTTGARTER NACHRICHTEN REPORTS THAT AT THE PRESS CONFERENCE STEFAN AUST, REPORTER FOR THE HAMBURG TV JOURNAL "PANORAMA," WHICH WAS FIRST TO DIVULGE FILBINGER'S INVOLVEMENT IN OTHER DEATH SENTENCES BEYOND THE ONE -- GROEGER -- HE ADMITTED TO, LEFT THE DEFINITE IMPRESSION WITH HIS QUESTIONING THAT HE HAD INFORMATION SUGGESTING FILBINGER'S INVOLVEMENT IN YET ANOTHER

DEATH SENTENCE. FILBINGER DENIED THIS; IT WAS "OUT OF THE QUESTION."

5. FILBINGER'S MEETING WITH THE CDU LEADERS FROM THROUGHOUT BADEN-WUERTTEMBERG PRODUCED A STATEMENT WHICH ALSO SUPPORTED HIS POSITION. THE CDU IN ITS STATEMENT EXPRESSED CONFIDENCE THAT FILBINGER HAD ISSUED HIS EARLIER DENIAL OF INVOLVEMENT IN OTHER DEATH SENTENCES IN GOOD FAITH AND WITHOUT ANY INTENTION OF MISLEADING THE PUBLIC, EVEN THOUGH HE HAD NEGLECTED TO MAKE THE DISCLAIMER THAT THE REMARKS WERE TO THE BEST OF HIS RECOLLECTION. FILBINGER COULD NOT BE REPROACHED FOR WHAT HE DID AS A NAVY JUDGE, SAID THE CDU, WHICH CONCLUDED ITS STATEMENT WITH THE PIOUS COMMENT (OR VEILED WARNING, AS THE CASE MAY BE) THAT THE CDU WAS ABOVE DELVING INTO THE PAST OF SPD OR FDP MEMBERS WHO HAD ALSO LIVED THROUGH THE THIRD REICH.

6. THE SPD AND FDP OF COURSE CLAIMED NOT TO BE IMPRESSED. THE SPD DEPLORED THAT BADEN-WUERTTEMBERG SEEMED CONDEMNED TO LIVE WITH A MINISTER-PRESIDENT WHOSE WORD COULD NOT BE TRUSTED AND AGAINST WHOM SO MANY CDU MEMBERS WERE CLEARLY AFRAID TO SPEAK OUT. (THE SPD DID NOT PICK UP FILBINGER'S CHALLENGE TO FILE A NO CONFIDENCE MOTION IN THE LANDTAG.) FOR THE SPD, FILBINGER WAS FOUND WANTING NOT BECAUSE OF HIS ROLE AS NAVY JUDGE BUT BECAUSE, IT WAS ALLEGED, HE IS DISPOSED TO EFFACE FROM HIS PAST WHATEVER LIMITED OFFICIAL USE

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DOES NOT CONFORM TO THE IMAGE HE HAS SINCE FOSTERED IN HIS PUBLIC LIFE. THE FDP IN ITS STATEMENT ECHOED THIS SAME THOUGHT, ADDING THAT THE "FILBINGER AFFAIR" WAS NOT A WITCHHUNT BUT A TEST OF DEMOCRATIC INSTITUTIONS, AND UNFORTUNATELY THE CDU HAD SHOWN ITSELF TO BE MORE ENAMORED OF POWER BY PROTECTING FILBINGER THAN OF DEDICATION TO DEMOCRATIC PRINCIPLES.

7. IF THE PRESS CAN BE BELIEVED THE STATEMENTS OF SEVERAL DISGRUNTLED CDU MEMBERS WHO SPOKE OUT AFTER THE MEETING WITH FILBINGER SUGGEST THAT DIFFERENCES WITHIN THE PARTY MAY HAVE BEEN PAPERED OVER ONLY TEMPORARILY. THE PRESS REPORTS THAT FILBINGER WAS CRITICIZED FOR ISSUING RECKLESS STATEMENTS AND THE STAATSMINISTERIUM STAFF WAS SCORED FOR BUNGLING ITS OWN HANDLING OF THE AFFAIR. A CDU MEMBER WAS QUOTED AS TELLING THE PRESS THAT THE SITUATION WITHIN THE PARTY TODAY WAS "ROTTEN" AND ANOTHER QUESTIONED HOW LONG THE PARTY RANK AND FILE WOULD TOLERATE THE PRESSURES THAT HAD BEEN BROUGHT TO BEAR ON ALL TO RALLY BEHIND FILBINGER. THE STUTTGARTER ZEITUNG REPORTED THAT THERE WAS ALREADY SOME TALK WITHIN THE CDU OF FORCING FILBINGER TO ABANDON THE LAND CHAIRMANSHIP OF THE PARTY, THOUGH PERHAPS ONLY NEXT YEAR, AND THEN OBLIGING HIM TO STEP DOWN AS MINISTER-PRESIDENT IN 1980. (THE PRESS ON JULY 11 REPORTS CDU SOURCES AS SAYING FILBINGER HAS CONFIRMED HIS INTENTION TO RUN FOR RE-ELECTION TO BOTH OFFICES.) THE STUTTGART PRESS (AND DER SPIEGEL IN ITS

COVER STORY THIS WEEK ON THE FILBINGER AFFAIR) ARE ALREADY SPECULATING ON WHO MIGHT SUCCEED FILBINGER; SPAETH IS CONSIDERED THE FRONTRUNNER, BUT THE NAMES OF MANFRED MOERNER, GERHARD ZEITEL AND GERHARD MAHLER ARE ALSO MENTIONED. DER SPIEGEL SPECULATES THAT IF ROMMEL IS TO BE THE PARTY'S CHOICE FOR MINISTER-PRESIDENT IN 1980, THEN THE CURRENT FINANCE MINISTER OF BADEN-WUERTTEMBERG, ROBERT GLEICHAUF, MIGHT BE NAMED MINISTER-PRESIDENT FOR THE INTERIM IF FILBINGER STEPS DOWN.

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8. COMMENT: IN THIS AFFAIR WHICH HAS SEEN MINOR INCIDENTS AND ASSERTIONS MAGNIFIED TO PROPORTIONS CAPABLE OF FUELING A CAUSE CELEBRE, IT IS DIFFICULT TO FORETELL WHAT MIGHT SET OFF YET ANOTHER WAVE OF ATTACK AGAINST FILBINGER. WITH DOUBT STILL LINGERING IN MANY QUARTERS CONCERNING HIS CREDIBILITY, THE FEDERAL MINISTRY OF THE INTERIOR IN BONN, ACCORDING TO THE STUTTGARTER NACHRICHTEN ON JULY 11, HAS REVEALED THAT THE MINISTRY WAS MADE AWARE AS EARLY AS MAY 24 THAT FEDERAL ARCHIVES HAD REVEALED FILBINGER'S INVOLVEMENT IN THE TWO OTHER DEATH SENTENCES. THE PRESUMPTION WOULD SEEM TO BE THAT FILBINGER TOO COULD THUS HAVE REFRESHED HIS MEMORY - OR HAD IT REFRESHED - AND

HAVE TAKEN THE INITIATIVE TO SPEAK OUT SOONER AND CORRECT THE RECORD. (A PROMINENT GERMAN BUSINESSMAN WITH WHOM WE SPOKE ON LIMITED OFFICIAL USE

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JULY 11 MADE PRECISELY THIS POINT WITH US, AND FURTHER EXPRESSED COMPLETE DISBELIEF THAT ANYONE COULD HAVE PERFORMED SO SERIOUS AN ACT AS PRONOUNCING A DEATH PENALTY, EVEN THIRTY OR MORE YEARS AGO, AND NOT REMEMBER IT. THE FEELING IS DOUBTLESS WIDESPREAD.)

9. FILBINGER CLEARLY INTENDS TO HAND ON IF HE POSSIBLY CAN AND HE MAY SUCCEED. RE-ELECTION OF THE LAND CHAIRMAN OF THE PARTY AND THE 1980 LANDTAG ELECTIONS ARE STILL A LONG WAY OFF AND MUCH CAN HAPPEN IN THE MEANTIME. HE WILL, FOR HIS PARTY AND FOR THE ELECTORATE, CLEARLY NEVER BE SIMON-PURE AGAIN, BUT UNLESS AND UNTIL THERE IS OVERWHELMING PRESSURE FROM WITHIN THE PARTY FOR HIS REMOVAL THEN HE MAY BE SUCCESSFUL IN SERVING OUT AT LEAST THE REST OF HIS MANDATE. HOWEVER, HIS SHORT-TERM TROUBLES ARE CLEARLY NOT OVER. THE HEARINGS IN HIS LAWSUIT AGAINST ROLF HOCHHUT AND DIE ZEIT RESUME IN STUTTGART ON JULY 13 AND, IN THE WAKE OF ALL THE LATEST PUBLICITY THE "AFFAIR" HAS GENERATED, THE COURT'S PRONOUNCEMENTS WILL CERTAINLY TRIGGER MORE HEADLINES AND PERHAPS MORE CONTROVERSY. WHILE THE SPD AND FDP MAY PRETEND THAT FILBINGER'S ROLE AS NAVY JUDGE IS NO LONGER AT ISSUE, THAT IS PRECISELY THE ISSUE BEFORE THE COURT AND IS, AFTER ALL, WHAT PRECIPITATED AND FED THE "FILBINGER AFFAIR" FOR MANY WEEKS AND MONTHS. FILBINGER MAY, FOR THE TIME BEING AT LEAST, HAVE THE LOCAL CDU ORGANIZATION IN BADEN-WUERTTEMBERG UNDER CONTROL, BUT THE QUESTION IS WHETHER THE NATIONAL PARTY LEADERSHIP WILL COME TO FEEL THAT FILBINGER IS A LIABILITY AND SHOULD STEP DOWN IN THE BEST INTERESTS OF THE NATIONAL PARTY. WITH THE CRITICAL HESSE ELECTION COMING UP AND THE CDU HUNGRY TO RETURN TO POWER IN BONN, PARTY STRATEGISTS MAY FEEL THAT THEY CAN ILL AFFORD THE RISK OF EVEN A SLIGHT TARNISH TO THE PARTY IMAGE BY APPEARING TO TOLERATE FILBINGER IF THE AFFAIR SHOWS NO PROMISE OF FINALLY DYING DOWN. THE CUMULATION OF THE PROBLEMS OF LUEBECK CITY PARLIAMENT PRESENT GAUL, LIKE FILBINGER REPROACHED FOR DEATH SENTENCES HANDED DOWN BY A GERMAN NAVY COURT MARTIAL OF WHICH HE WAS A MEMBER (REF C), LIMITED OFFICIAL USE

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MAY HAVE A SNOWBALL EFFECT AND INCITE THE CDU TO DISTANCE ITSELF FROM BOTH THESE RELATED INCIDENTS. IT IS QUESTIONABLE WHETHER FILBINGER COULD RESIST ENTREATIES FROM THE NATIONAL CDU LEADERSHIP TO STEP DOWN, FOR FAILURE TO DO SO COULD ERODE WHAT SUPPORT HE STILL HAS WITHIN THE LAND ORGANIZATION. UNLIKE THE REST OF US FILBINGER MAY BE IN FOR A VERY HOT SUMMER.MILLER

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